

**Before the  
Federal Communications Commission  
Washington, D.C.**

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In the Matter of	)	
	)	WT Docket No. 02-146
Allocations and Service Rules for the	)	
71-76 GHz, 81-86 GHz and	)	
92-95 GHz Bands	)	
	)	
LOEA Communications Corporation	)	RM-10288
Petition for Rulemaking	)	
_____	)	

**REPLY COMMENTS OF WINSTAR COMMUNICATIONS, LLC**

Joseph M. Sandri, Jr.  
Lynne Hewitt Engledow  
Winstar Communications, LLC  
1850 M Street, NW  
Suite 300  
Washington, DC 20036

February 3, 2003

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**REPLY COMMENTS OF WINSTAR COMMUNICATIONS, LLC**

On behalf of Winstar Communications, LLC <sup>1</sup> (“Winstar”) enclosed herewith please find its comments regarding the Notice of Proposed Rule Making (“NPRM”).<sup>2</sup>

**I. INTRODUCTION**

In the NPRM the Commission notes that “we seek comment on our proposed rules to allow use of the 71-76 GHz, 81-86 GHz, 92-94 GHz and 94.1-95 GHz bands for a broad range of new fixed and mobile services.”<sup>3</sup>

Winstar is encouraged that the Federal Communications Commission (“FCC” or “Commission”) is opening these portions of the electromagnetic spectrum for public use.

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<sup>1</sup> Most of the assets of Winstar Communications, Inc. (“Old Winstar”) were purchased out of Chapter 11 bankruptcy on December 19, 2001 by a wholly-owned subsidiary of IDT Corp. (“New Winstar”), and New Winstar became involved in company operations pursuant to a contiguously created management agreement that was adopted by the bankruptcy court. The FCC granted the related assignment of the Old Winstar spectrum licenses in a series of actions on April 17, 2002. Some of those assignments were conditioned. Most of those license assignments were consummated June 14, 2002 except for the assignment of certain LMDS licenses, which remains to be concluded, subject to the performance of certain conditions.

<sup>2</sup> See *In re* Allocations and Service Rules for the 71-76 GHz, 81-86 GHz and 92-95 GHz Bands; Loea Communications Corporation Petition for Rulemaking, 17 FCC Rcd. 12182 (2002).

<sup>3</sup> See *id.* at para. 2.

## **II. COMMENTS**

### **A. A Percentage of the Spectrum at Issue should be Licensed**

Winstar provides terrestrial-based, predominately fixed, broadband communications using the area-wide licensed 38.6-40.0 GHz (“39 GHz”) and Local Multipoint Distribution Service (“LMDS” or “28 GHz and 31 GHz”) bands. The Winstar area-wide licenses cover the entire country, Alaska, Hawaii and the lower 48 states. Winstar also utilizes the point-to-point licensed microwave bands (including, but not limited to, 6 GHz, 10 GHz, 18 GHz and 23 GHz).

Winstar supports the Commission’s decision to open additional electromagnetic spectrum for the public’s use and benefit. However, Winstar contends that at least 50% of the spectrum at issue should be allocated on a licensed basis.

### **B. A Portion of Each of the Bands should be Auctioned on a Geographic Basis**

Winstar believes that at least part of each of the three bands should be auctioned on a geographic basis.<sup>4</sup> Many high-speed broadband customers require the security of license protected communications. Unlicensed systems, especially in high density fixed service environments (urban areas, campuses, etc.) otherwise face the real prospect of substantial interference. An internal analysis of over three thousand broadband, millimeter spectrum, fixed service links indicated that a majority of the links operated over relatively short distances (i.e. below 0.5 miles) often in very close proximity to other links in the same band. Accordingly, without proper internal coordination and the protections of an area-wide license, such links would either not be possible or would suffer degradations making them unsuitable for commercial or government connectivity standards.

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<sup>4</sup> See Comments of Fixed Wireless Communications Coalition, to the *Notice of Proposed Rule Making* in WT Docket No. 02-146, at 10 footnote 20 (Dec. 18, 2002).

Winstar is a member of the Wireless Communications Association International (“WCA”) and the Fixed Wireless Communications Coalition (“FWCC”). To the extent that the WCA or FWCC comments contradict this position on geographic licensing Winstar disagrees with WCA and FWCC positions, and otherwise supports the rest of their comments.

### **III. CONCLUSION**

WHEREFORE THE PREMISES CONSIDERED, Winstar Communications, LLC requests that the Commission proceed expeditiously in its consideration of these proposals, and giving due consideration to the comments and recommendation made by Winstar in our Comments, as above.

Respectfully submitted,

**WINSTAR COMMUNICATIONS, LLC**

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Joseph M. Sandri, Jr.  
Lynne Hewitt Engledow  
1850 M St., NW  
Suite 300  
Washington, DC 20036  
(202) 367-7600

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